

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

ALVIN L. MARSH,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-11-127-D
)	
CAROLYN W. COLVIN, Acting Commissioner)	
of the Social Security Administration,)	
)	
Defendant.)	

ORDER

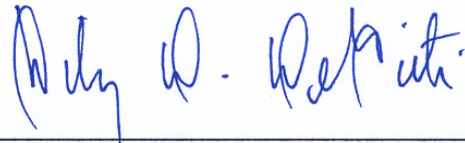
This matter comes before the Court for consideration of Plaintiff's Application for an Award of Attorneys' Fees Under the Equal Access to Justice Act [Doc. No. 26]. Plaintiff seeks an award of attorney fees under 28 U.S.C. § 2412(d) in the amount of \$4,985.00 to compensate his attorney for 27.1 hours of legal services provided in the case. Plaintiff is the prevailing party in this action under 42 U.S.C. § 405(g) by virtue of the Judgment and Order of Remand entered July 30, 2013. The Acting Commissioner has responded by stating she does not object to the Application.

After consideration of the law, the record, and the Application and supporting brief, the Court finds: (1) the Commissioner's position in the case was not substantially justified; (2) Plaintiff is entitled to an award of attorney fees under the Equal Access to Justice Act, 28 U.S.C. § 2412(d); and (3) the amount of attorney fees requested is reasonable.

IT IS THEREFORE ORDERED that Plaintiff's motion is GRANTED. The Court orders an award of attorney fees to Plaintiff pursuant to the Equal Access to Justice Act in the amount of \$4,985.00. Should an additional fee award under 42 U.S.C. § 406(b) subsequently be authorized,

Plaintiff's attorney shall refund the smaller amount to Plaintiff as required by *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED this 10th day of September, 2013.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE